

# **Exhibit C**

## **Joint Statement Regarding Plaintiffs' Rule 30(b)(6) Notice (December 29, 2023)**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE**

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SNMP RESEARCH, INC. and SNMP	:	Case No. 3:20-cv-00451-CEA-DCP
RESEARCH INTERNATIONAL, INC.,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
BROADCOM INC., BROCADE	:	
COMMUNICATIONS SYSTEMS LLC, and	:	
EXTREME NETWORKS, INC.,	:	
	:	
Defendants.	:	
	:	
	X	

**JOINT STATEMENT REGARDING PLAINTIFFS SNMP RESEARCH, INC.'S AND  
SNMP RESEARCH INTERNATIONAL, INC.'S RULE 30(B)(6) NOTICE**

## **I. Parties' Joint Statement**

Pursuant to the Court's order at the December 21, 2023 hearing, the parties submit the following statement regarding (i) the parties' agreed-upon 30(b)(6) witnesses and deposition dates, (ii) a proposed briefing schedule for 30(b)(6) topics that are still in dispute and a dispute over cumulative time allowed for Plaintiffs' 30(b)(6) notice; and (iii) the parties' dispute regarding the opening date for expert reports.

**Agreed Witnesses and Dates.** The parties have agreed on the following dates for the following 30(b)(6) topics:

<b><u>Witness</u></b>	<b><u>Location</u></b>	<b><u>Deposition Date</u></b>	<b><u>30(b)(6) Topics</u></b>
Kaylee Freeman	Kansas City, MO	1/15/2024	14, 16, 26, 35, 39 (finance related topics)
Hardik Ajmera	Boston, MA	1/19/2024	12, 13, 22 (marketing related topics)
Michael Fitzgerald	Boston, MA	2/1/2024	4, 7, 23, 33, 34, 36, and 38
Dan DeBacker	San Francisco, CA	2/14/2024	1, 8, 9, 21, 25, 31

**Remaining Disputed Topics.** The parties still have two disputes related to the 30(b)(6) notice: (1) a dispute over topics 2, 3, 5, 6, 10, 11, 15, 18, 19, 20, 27, 28, 29, 30, 32, 37, and 40; and (2) a dispute over the cumulative time allowed for the 30(b)(6) depositions. As to the first dispute, this set of topics no longer includes topic 24 because the parties have agreed to negotiate a stipulation on authenticity of documents in lieu of this topic. As to the second dispute, Extreme is asking for an overall time limit of 21 hours. Extreme's request is consistent with reasonable overall time limits on Rule 30(b)(6) routinely set by federal courts, including courts in the Sixth Circuit. *See, e.g., Smith v. Smith*, 2020 WL 1933820, at \*6 (E.D. Mich. Apr. 22,

2020) (limiting cumulative 30(b)(6) to fourteen hours because seven-hour examination of each of the four designees would have rendered the Rule 30(b)(6) deposition excessively long).

Plaintiffs have offered a 40-hour time limit for the first seven designated Rule 30(b)(6) deponents, even though the Advisory Committee Notes make clear that Plaintiffs are entitled to 7 hours per “each person designated under Rule 30(b)(6).” In the hopes of resolving these disputes as soon as possible, the parties have agreed to the following briefing schedule, subject to Court approval:

- January 2, the parties will simultaneously exchange their positions;
- January 4, the parties will exchange any further edits to their positions;
- January 5, the parties will exchange any final edits to their positions and will then submit the joint statement to the Court by 5pm EST.

The joint statement will be limited to five pages (single-spaced) per side on the disputed topics, an appendix identifying the agreed upon topics, and an additional page per side for the cumulative time limit issue. The parties also request that the Court set a hearing date to hear argument on the disputed Topics.

## **II. Extreme’s Additional Statement About Scheduling Two Depositions in February 2024**

On December 21, the Court asked Extreme to secure some deposition dates for the twenty-one topics in mid-January and if certain dates are not in mid-January or the beginning of February, explain why not in this joint statement. 12/21 Discovery Hr’g Tr. at 14:15-16:1. Although the parties have agreed on deposition dates, Extreme provides this additional statement to ensure it is complying with the Court’s order.

Extreme designated Ms. Freeman on finance topics and Mr. Ajmera on marketing topics and offered their depositions in mid-January. Extreme also explained to SNMPR why the

remaining two depositions were scheduled in early-February. Extreme could not designate Mr. DeBacker in January because Mr. DeBacker will be caring for his wife from January 17 through February 5 because she is scheduled to have surgery in mid-January. Furthermore, Messrs. DeBacker and Fitzgerald are designated to cover numerous topics about engineering and source code. Most of these topics are not known by any one person at Extreme and some topics cover facts spanning around 23 years. They require significant 30(b)(6) witness preparation on disparate topics.

Furthermore, Extreme's attorneys are unavailable to prepare these witnesses in most of January because of travel and deadlines in other cases. Mr. Neukom, Extreme's lead counsel, has sixteen or more depositions in two cases that must occur before by January 31, when fact discovery closes in those cases. Mr. Tabaie has at least eight depositions scheduled to occur before January 24 (which overlap with Mr. Neukom's depositions) and summary judgment opposition briefing due the end of month. Mr. Prabhakar is unavailable during the week of January 8 because of deadlines in another matter. All three are traveling for work between January 23-25.

### **III. Opening Expert Report Deadline**

#### **A. Plaintiffs' Position**

Plaintiffs have asked Extreme to stipulate to extending Plaintiffs' expert report deadline from April 2, 2024 to April 30, 2024—the same expert report deadline as Extreme, which imposes no prejudice on Extreme and does not require adjusting any other scheduling order dates. Extreme has not agreed and the parties remain at an impasse. Plaintiffs respectfully request that the Court permit briefing of this issue on the same schedule as the proposed schedule set forth above, limited to one page per side for this issue (i.e. totaling 7 pages per side for all issues). *See* Dkt. 348 at 12:17-13:3 (“In working towards [resolving the disputed topics], if it

does look like that is going to impact the opening report dates of April, I want you to meet and confer on that and submit a joint motion if that's agreed upon. If not, I do want you to contact my chambers and I'll get you back on the call to discuss that as well . . . But I do understand that it could become something that needs to be addressed in January.”). Plaintiffs have more than adequately explained to Extreme why a short extension is warranted—at the December 21 hearing, in email correspondence with counsel, and again on a phone call today. Extreme’s request that this issue be delayed further into the future invites a potential disruption of other deadlines in this case.

### **B. Extreme’s Position**

Plaintiffs’ demand for change in the date of Plaintiffs’ opening expert reports is premature at this stage, especially when depositions for Plaintiffs’ finance and marketing witnesses are now set in mid-January, as Plaintiffs demanded at the hearing. 12/21 Discovery Hr’g Tr. at 19:7-12.

Extreme asked Plaintiffs for specific reasons why they needed more than two months’ time to incorporate 30(b)(6) testimony into expert reports. All Plaintiffs have said is that “this timing prejudices Plaintiffs substantially. It delays the investigation and preparation of Plaintiff’s expert reports and sets back this process by months.”

The premise of Plaintiffs’ requested extension is that Extreme has acted inappropriately somehow, which Extreme has not. Plaintiffs’ requested schedule change prejudices Extreme because, among other things, Plaintiffs want to decrease Extreme’s time to review and assess Plaintiffs’ expert reports by 28 days in advance of submitting its own reports, which would unilaterally undo their agreement with Extreme on a case schedule, including having staggered expert reports, that the parties had negotiated and proposed to the Court less than a year ago. *See* ECF No. 238, at ¶ 24.

Extreme is therefore not willing to agree to a scheduling change at this time but is open to revisiting a schedule extension for both sides' expert reports after the 30(b)(6) deposition if Plaintiffs can articulate a specific need. Extreme therefore proposes waiting until the 30(b)(6) deposition is concluded to brief SNMPR's extension request. If the Court is inclined to have briefing on this subject now, Extreme requests that the Court have Plaintiffs articulate their need for an extension with as much particularity as Plaintiffs plan to put in their informal brief and then direct the parties to meet and confer after, so that the parties can hopefully reach a reasonable solution without burdening the Court. If Plaintiffs are not planning on providing any additional specificity to the Court other than what has been quoted above, Extreme agrees with Plaintiffs that the issue should be briefed now along with the other issues with one additional page per side.

Respectfully submitted,

Dated: December 29, 2023

By: /s/ John L. Wood

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